

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHARLES TALBERT,

Plaintiff,

v.

PRESIDENT JOE BIDEN, et al,

Defendants.

Case No. 1:23-CV-260

MEMORANDUM ORDER

This action was received by the Clerk of Court on August 28, 2023. The matter was assigned and later referred to Chief United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

Plaintiff, acting pro se, alleges that his constitutional rights were violated during his incarceration in a State Correctional Institution. Rather than identify and sue any of the individuals directly responsible for the alleged violations, Plaintiff sued a host of state and federal agencies and officials. Invoking the Spending Clause of the U.S. Constitution, Plaintiff alleges that the Commonwealth of Pennsylvania, Governor Josh Shapiro, the Office of Administration, Office of Planning and Policy, Office of the State Inspector General, Office of Homeland Security, Office of the Budget, Department of Human Services, Department of Health, and Department of Corrections (collectively referred to as the “Commonwealth Defendants”) “received federal financial assistance for their program and activities, to which they have failed to carry out, to which caused, and still causes, the Plaintiff detriment to his

health, safety, and general wellbeing.” ECF No. 7, at page 24. He also raised similar claims against two private corporations, Centurion and Wellpath (collectively referred to as the “Corporate Defendants”), both of whom are contracted to provide health care in inmates.

Plaintiff also seeks mandamus type relief against President Joe Biden, the Department of Health and Human Services, Department of Justice, Department of State, Department of Treasury, and the United States (collectively referred to as the “Federal Defendants”) for failing to “comply with their own rules, statutes, and policies.” *Id.* Finally, Plaintiff sues the Pennsylvania State Corrections Officers Association and its President John Eckenrode, as well as the United Nations.

The Commonwealth Defendants, the Federal Defendants, Eckenrode and the Association, and Wellpath have filed motions to dismiss in response to the original complaint. ECF No. 60, 63, 65, and 71. Plaintiff has filed a brief in opposition to each pending dispositive motion. ECF Nos. 77-78. And Plaintiff has also filed multiple motions seeking preliminary injunctive relief.

On April 11, 2024, Chief Magistrate Judge Lanzillo issued a Report and Recommendation recommending that each of the motions to dismiss be granted; that Plaintiff’s multiple motions for preliminary injunctive relief be denied; and that Plaintiff be allowed an opportunity to file an amended complaint. ECF No. 93. Despite being advised of the timeframe to file Objections to the Report and Recommendation, none have been filed.

Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—a magistrate judge’s findings or recommendations. 28 U.S.C. § 636(b)(1); Local Rule 72(D)(2).

After *de novo* review of the complaint and filings in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 17th day of July 2024;

IT IS HEREBY ORDERED that each of the motions to dismiss be granted. Specifically:

The motion to dismiss filed by Defendants Joe Biden, Department of Health and Human Services, Department of Justice, Department of State, Department of Treasury, and the United States [ECF No. 60] is GRANTED. These Defendants are dismissed from this action with prejudice as of today's date.

The motion to dismiss filed by John Eckenrode and the Pennsylvania State Corrections Officers Association [ECF No. 65] is GRANTED. These Defendants are dismissed from this action with prejudice as of today's date.

The motion to dismiss filed by the Commonwealth of Pennsylvania [ECF No. 63] is GRANTED. Plaintiff has leave to amend his complaint as to this party.


The motion to dismiss filed by Wellpath [ECF No. 71] is GRANTED. Plaintiff has leave to amend his complaint as to this party.

IT IS FURTHER ORDERED that Plaintiff's original complaint is hereby dismissed.

Plaintiff may file an amended complaint consistent with the Report and Recommendation.

IT IS FURTHER ORDERED that Plaintiff's motions for preliminary injunctive relief [ECF Nos. 10, 18, 47, 49, and 69] are DENIED.

AND IT IS FINALLY ORDERED that the report and recommendation of Chief Magistrate Judge Lanzillo, issued on April 11, 2024 [ECF No. 93] is adopted as the opinion of the court.


SUSAN PARADISE BAXTER
United States District Judge